



FAQ's:

- 1) Q: Whom does the Telecommunication Occupation Tax apply to?
A: The Telecommunication tax is levied upon every person, firm, partnership, corporations, or association engaged in the business of offering or selling telecommunications equipment or telecommunication services to the public for hire in the City of Lincoln.
- 2) Q: What is the Telecommunication Occupation Tax rate?
A: The rate is six percent (6%) on the gross receipts resulting from any telecommunication services and charges to a customer for which telecommunication services are provided and the gross receipts resulting from any sale of telecommunication equipment.
- 3) Q: What are the items being taxed?
A: Communication devices sold for the purpose of providing or as part of a telecommunication service, including but are not limited to: phones, mobile phones, cellular phones, smart phones, pagers, phone cards, calling cards, rechargeable cards, telephone tokens and telecommunication services. Please refer to the ordinance found at <http://lincoln.ne.gov/city/finance/treas/index.htm>
- 4) Q: Where do I send my monthly payment and remittance worksheet?
A: City Treasurer
City of Lincoln
555 South 10th St
Lincoln, NE 68508
- 5) Q: When is the Telecommunications Occupation Tax due?
A: On or before the last day of each and every month the occupation taxes collected from the preceding month shall be paid to the City of Lincoln.
- 6) Q: Whom do I contact if I have a question regarding Telecommunications Occupation Tax?
A: City Treasurer's office at 441-7457.

- 7) Q: Where do I send a written request for additional information?
A: City Finance Department
555 South 10th Street
Lincoln, Nebraska 68508
- 8) Q: How do I calculate sales tax?
A: Contact the Nebraska Department of Revenue at (402) 471-5729 or visit their website at http://www.revenue.state.ne.us/info/occupation_tax.html
- 9) Q: Is there a late remittance fee?
A: All late payments shall draw interest at the rate of one percent (1%) per month and shall be compounded quarterly. After default for six months, a penalty of five percent (5%) shall be added in addition to the interest charges.
- 10) Q: What are the office hours?
A: The City Finance department is open 8:00 – 4:30, M-F.
- 11) Q: Does the Telecommunications Occupation Tax include fax machines and 4 in 1 machines that are fax, photocopy, printer, and scanner?
A: No. Telecom equipment is limited to hand held or desktop phones. Telecommunications equipment shall not include computers, routers, hubs, lamp and key systems or private branch exchanges.
- 12) Q: What is included in “mobile radio services”?
A: It includes land-mobile FM UHF radio service for short distance, two-way communication. It is intended for use by an individual who possesses a valid GMRS license. GMRS radios are typically handheld portable devices. Mobile and base station-style radios are available but these are normally commercial UHF radios as often used in the public service and commercial land mobile bands. These are legal for use in this service as long as they are GMRS type-approved.
- 13) Q: Is an antique phone included in the Telecommunications Occupation Tax?
A: Yes, if it is a working phone.
- 14) Q: Are any sales exempt from the Telecommunications Occupation Tax?
A: Sales of telecommunications equipment and services charged to the United States government or any of its departments, or the State of Nebraska, or any of its agencies, subdivisions, or departments are not included as part of the gross receipts.
- 15) Q: Do I need to remit a monthly Telecommunications Occupation Tax form for a month in which I had no taxable sales?
A: No

16) Q: Is the Telecommunications Occupation Tax applied to (1) federal, state, and local taxes included in customer bills, and (2) any regulator surcharges included in the customer's bill?

A: Section 3.24.080 (c)5 provides in pertinent part "Telecommunication service . . . includes . . . (5) Any other telecommunication services that are a necessary component of the services provided, regardless of whether the services or fees are required by federal, state or local authorities or provided by the telecommunication business . . ." Subsection (d) (6) also provides an applicable exclusion "(6) Any sales taxes imposed by the State of Nebraska pursuant to Neb. Rev. Stat. § 77-2703." Taking these two provisions together, the only reference to taxes is subsection (d)(6) where sales taxes are specifically excluded from inclusion within "gross receipts". The references to services and fees do not expressly include federal, state or local taxes nor is the City interpreting the ordinance to include taxes.

In regards to regulatory surcharges, the ordinance includes "services that are a necessary component of the services provided, regardless of whether the services or fees are required by federal, state, or local authorities." If a component of telecommunication service is provided, it doesn't matter whether the service, or any associated fee, is required by a federal, state, or local authority, it is included within the telecommunication services that are taxable. The ordinance includes all such fees whether they are currently imposed or may be imposed in the future or whether they are called surcharges or some other term. There is no language to exclude any particular "regulatory surcharge".

17) Q: Is video conferencing equipment covered under the ordinance?

A: Yes

18) Q: What customers does the tax apply to?

A: The tax is applied to gross receipts where the telecommunication service is charged to an address within the City or on a business that is doing business within the jurisdiction of the City.

19) Q: Is the infrastructure equipment for a Private Branch Exchange system taxable?

A: No, the ordinance excludes the infrastructure related to any Private Branch Exchange System.

20) Q: Are the desk phones sold for connectivity to a Private Branch Exchange system taxable?

A: Yes

21) Q: Is cable or wire taxable?

A: No

22) Q: Is labor to pull cable for a phone or speaker taxable? Is labor taxable for programming changes to phones?

A: The selling and/or provision of telecommunication service is taxable. Section 3.24.080 (c)5 specifically includes installation and maintenance service as part of telecommunication service. “(5) Any other telecommunication services that are a necessary component of the services provided, regardless of whether the services or fees are required by federal, state, or local authorities or provided by the telecommunication business including, but not limited to, installation, maintenance, any premise service, service connections, late payment fees, and equipment leasing.”

23) Q: How does the tax impact projects with phones and electrical work?

A: The occupation tax does not apply to electrical work unless it is a necessary component of telecommunication service. Only the component of the job that applies to telecommunication service are taxable.

24) Q: Will labor be taxable for remote service work on phone systems? Would this change if the phones were internet based?

A: It doesn't make any difference whether the maintenance service is onsite or remote. It does make a difference as to where the customer is located. If the service is provided to a customer located within the city limits or the service is charged to an address within the city, the tax applies to those maintenance charges. The tax does not apply to customers or locations outside of the city.

The connection of the phone system to the internet has no distinction under the ordinance. The Internet Tax Freedom Act specifically exempts telephony systems over broadband from the prohibition of taxation under the Act.

25) Q: Does the tax apply to repairing a broken phone or pager?

A: The selling and/or provision of telecommunication service is taxable. Section 3.24.080 (c)5 specifically includes installation and maintenance service as part of telecommunication service. “(5) Any other telecommunication services that are a necessary component of the services provided, regardless of whether the services or fees are required by federal, state, or local authorities or provided by the telecommunication business including, but not limited to, installation, maintenance, any premise service, service connections, late payment fees, and equipment leasing.”

26) Q: How will this tax be applied in a situation involving the installation of a VoIP Phone System? Since the ordinance specifically excludes telecommunications equipment such as computers, routers, hubs, lamp and key systems or private branch exchanges, are we to itemize the labor and materials specifically to this and take it out of the “gross receipts” for the project or is it included as “gross receipts” because it is performed within the same project?

A: Virtually all telecommunication services and/or equipment have computers or computer-like components associated with them. The definition of “telecommunication service” specifically includes VoIP type services in Section 3.24.080(a). The installation charges for telecommunication services (in this case, VoIP) are also included within the term telecommunication service. 3.24.080(b) states that “telecommunication equipment shall not include computers, routers, hubs, lamp and key systems or private branch exchanges”. The equipment component of the VoIP system can be broken down in to two groups of equipment. The first group is the equipment that represents a like device to a cell phone or desk phone. The City Council has determined that the components of the system that a customer physically uses for telecommunication service are taxable, i.e. cell phones, desk phones, pagers, etc. This group is not limited to handheld devices. For example, we have determined that it also includes video conferencing equipment. It does not include the second group, that equipment that the customer does not regularly interface with, the infrastructure equipment behind the scene, the routers, the hubs, the wiring, etc. This group of equipment is not taxable.

27) Q: Will this be something our accounts payable department will need to self-assess tax to the city for phone purchases? Then we will turn around and charge the same tax to our customer? Or will this not apply when we are acting as a reseller?

A: The occupation tax is imposed on the business not on the customer, as is the case with sales tax. Nothing prevents the business from passing that cost onto the customer. The City Council passed an amendment to the tax provisions to add the following specific language “The seller of telecommunication services or equipment may itemize, as an add-on charge, the tax levied on a bill, receipt, or other invoice to the purchaser, but the each seller engaged in selling telecommunication services or equipment shall remain liable for the tax imposed by this section.”

The tax should not be imposed on a wholesale transaction. The ordinance language is interpreted to limit the imposition of the tax to the retail sales context.

28) Q: Is this to be implemented based on the date of services performed or the date billed?

A: The date the services are performed.

29) Q: Is the only exemption from this tax the government? Are churches required to pay this tax?

A: There are a variety of services and charges that are excluded from gross receipts. The only customer-based exemption is the government. A customer is not exempt from the occupation tax by its status of exemption from sales tax.

30) Q: Does this tax apply to wholesale transactions or retail transactions?

A: This tax applies only to retail transactions.